

(2) If a State agency fails to submit a corrected data file that meets the compliance standards in section 1356.85 of this part and the deadline in paragraph (e)(1) of this section, ACF will make a final determination that the State is out of compliance, notify the State agency, and apply penalties as defined in section 1356.86 of this part.

[73 FR 10365, Feb. 26, 2008]

**§ 1356.86 Penalties for noncompliance.**

(a) *Definition of Federal funds subject to a penalty.* The funds that are subject to a penalty are the CFCIP funds allocated or reallocated to the State agency under section 477(c)(1) of the Act for the Federal fiscal year that corresponds with the reporting period for which the State agency was required originally to submit data according to section 1356.83(a) of this part.

(b) *Assessed penalty amounts.* ACF will assess penalties in the following amounts, depending on the area of non-compliance:

(1) *Penalty for not meeting file submission standards.* ACF will assess a penalty in an amount equivalent to two and one half percent (2.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the file submission standards defined in section 1356.85(a) of this part.

(2) *Penalty for not meeting certain data standards.* ACF will assess a penalty in an amount equivalent to:

(i) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the data standard for error-free data as defined in section 1356.85(b)(1) of this part.

(ii) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which

ACF makes a final determination that the State agency's data file does not comply with the outcome universe standard defined in section 1356.85(b)(2) of this part.

(iii) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the participation rate for youth in foster care standard defined in section 1356.85(b)(3)(i) of this part.

(iv) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the participation rate for discharged youth standard defined in section 1356.85(b)(3)(ii) of this part.

(c) *Calculation of the penalty amount.* ACF will add together any assessed penalty amounts described in paragraphs (b)(1) or (b)(2) of this section to determine the total calculated penalty result. If the total calculated penalty result is less than one percent of the funds subject to a penalty, the State agency will be penalized in the amount of one percent.

(d) *Notification of penalty amount.* ACF will advise the State agency in writing of a final determination of non-compliance and the amount of the total calculated penalty as determined in paragraph (c) of this section.

(e) *Interest.* The State agency will be liable for interest on the amount of funds penalized by the Department, in accordance with the provisions of 45 CFR 30.13.

(f) *Appeals.* The State agency may appeal, pursuant to 45 CFR part 16, ACF's final determination to the HHS Departmental Appeals Board.

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**APPENDIX A TO PART 1356—NYTD DATA ELEMENTS**

Element #	Element name	Responses options	Applicable population
1 .....	State .....	2 digit FIPS code.	
2 .....	Report date .....	CYYMM. CC= century year (i.e., 20). YY = decade year (00–99). MM = month (01–12).	